



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/913,976	12/22/1997	MARK HODGKINSON	71272	7811

7590 11/30/2001

WELSH & KATZ  
120 SOUTH RIVERSIDE PLAZA  
22ND FLOOR  
CHICAGO, IL 60606

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
----------	--------------

1616

DATE MAILED: 11/30/2001

25

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
08/913,976

Applicant(s)  
Hodgkinson

Examiner  
Alton Pryor

Art Unit  
1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 20, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22, 24-35, and 38-42 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22, 24-27, 31, 33-35, 38, and 40-42 is/are rejected.
- 7) ☒ Claim(s) 28-30, 32, and 39 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 1616

Applicant's arguments filed 9/29/01 have been fully considered but they are not persuasive.

I. Rejection of claim 27 under 35 U.S.C. 102(b) according to Parham will be maintained for reasons on record and reasons as follows. Applicant argues that claim 27 now recites that the oil is a carrier in agricultural sprays. Examiner takes the view that in a claim to a composition the intended use of the composition's components has no patentable weight. Applicant also argues that Parham teaches the diluent being usually water or an organic solvent. Examiner takes the view that Parham also teaches a herbicidal oil. In addition, Examiner argues that Applicant's composition does not exclude the addition of water since Applicant uses the open language "comprising" in the claims. It is also important to note that Parham teaches compositions comprising instant UV deactivators such as benzotriazole compounds and calcium dodecyl benzene sulphonate. See Parham pages 1 and 5.

II. Rejection of claims 22,24-26,31,33, and 34 according to NL '602 will be maintained for reasons on record and reasons as follows. Applicant argues that the sulphonates in Figure 5 are not equivalent in structure or properties to sulphonates disclose in NL '602. Examiner takes the view that whether or not the sulfonate structures in Figure 5 are equivalent to the sulphonates in NL '602 is not an issue since NL '602 teaches calcium sulfonate (overbased sulfonate). Applicant argues where one uses calcium lignin sulphonate with carrier oil of Applicant, the instant invention would not be attained. However, Applicant provides no data supporting this statement. Applicant must provide data since NL '602 teaches a calcium sulphonate. Applicant also argues that the oil soluble basic compound is added in an amount to neutralize acidic compounds present

Art Unit: 1616

in carrier. Examiner suggests that Applicant provides data supporting the criticality of the amounts needed in Applicant's invention. Where the prior art teaches the substance of an invention excluding the amounts a showing of unexpected results is required.

III. Rejection of claims 22,24-27,31,33-35,38,40-42 under 35 U.S.C. 103(a) according to Parham and NL '602 in combination will be maintained. Examiner maintains this rejection for reasons set forth above.

IV. Objection to claims 28-30,32, and 39 is maintained for reasons on record.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 1616

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

A handwritten signature in black ink, appearing to read 'Alton N. Pryor', is positioned above the printed name.

Alton Pryor

Primary Examiner, AU 1616

11/28/01